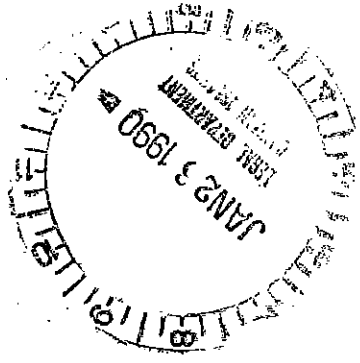


1989

17/1/89



IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

BEFORE THE HON. THE CHIEF JUSTICE

INDICIMENT # 40 OF 1989

Mr. A. Smellie for the Prosecution
Mr. J. Jenkins and Mr. J. Furniss for the Defence

MALONE C.J.

RULING.

On the 17th September 1983 the first accused was interviewed as a suspect by New Scotland Yard detectives and a statement was recorded from him. In the course of that interview he is reported to have said that a statement he had made earlier as a potential witness on the 22nd December 1982 was untrue. That reference is objected to by his Counsel who submits that it should be struck out of the statement made on the 17th September, 1983. Apart from that objection, no other objection is taken to the statement recorded on the 17th September 1983.

Juveniles, whether suspects or not, should as far as practicable be interviewed by the Police in the presence of a parent, guardian or other suitable person (See Appendix B direction 4 Archbold 42nd ed 15-14 at p 1114). In this instance that direction was not followed in the case of the interview of the 22nd December 1982. It is not, however, suggested that at that interview advantage was taken of the first accused. The submission made on the objection is that a statement taken from him as a potential witness cannot subsequently be used to show inconsistency on his part when later he becomes a suspect if at the time when the statement was made neither the parents, guardian or other suitable person was present.

To my mind the defect in the taking of the caution statement is not relevant to the admissibility of the statement recorded on the 17th September 1983 or to any portion of that statement as that statement was properly obtained in accordance with the Judges' Rules.

Accordingly I rule that the statement taken on the 17th September 1983 is admissible.

17th January, 1989.